

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CARLOS LOBATO ROMERO,)
Petitioner,) 2:11-cv-00679-RLH-RJJ
vs.) **ORDER**
BRIAN WILLIAMS, *et al.*,)
Respondents.)

Carlos Lobato Romero, a Nevada prisoner, has submitted a second petition for a writ of habeas corpus (docket #6) in response this court's order dated June 20, 2011 (docket #5).

The habeas petition (docket #6) shall be served upon the respondents.

A petition for federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. *See* 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should notify the court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

25 Petitioner has also submitted an ex parte motion for the appointment of counsel (docket #2)
26 and a second motion for appointment of counsel (docket #7). There is no constitutional right to appointed

1 counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin*
2 *v. Vasquez*, 999 F.2d 425, 428 (9th Cir.1993). The decision to appoint counsel is generally discretionary.
3 *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), cert. denied, 481 U.S. 1023 (1987); *Bashor v.*
4 *Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469 U.S. 838 (1984). However, counsel must be
5 appointed if the complexities of the case are such that denial of counsel would amount to a denial of due
6 process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting
7 his claims. See *Chaney*, 801 F.2d at 1196; see also *Hawkins v. Bennett*, 423 F.2d 948 (8th Cir.1970). The
8 petition on file in this action appears sufficiently clear in presenting the issues that petitioner wishes to raise.
9 Counsel is not justified at this time. The motions are both denied without prejudice.

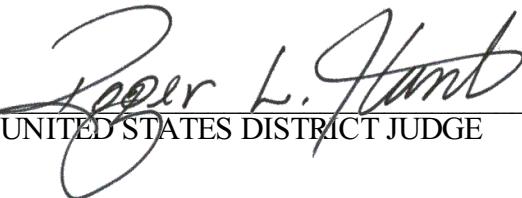
10 **IT IS THEREFORE ORDERED** that the Clerk shall **ELECTRONICALLY SERVE** the
11 petition (docket #6) on the respondents.

12 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45) days** from entry
13 of this order within which to answer, or otherwise respond to, the petition. In their answer or other response,
14 respondents shall address any claims presented by petitioner in his petition as well as any claims presented by
15 petitioner in any Statement of Additional Claims. Respondents shall raise all potential affirmative defenses in
16 the initial responsive pleading, including lack of exhaustion and procedural default. **Successive motions to**
17 **dismiss will not be entertained**. If an answer is filed, respondents shall comply with the requirements of Rule
18 5 of the Rules Governing Proceedings in the United States District Courts under 28 U.S.C. §2254. If an
19 answer is filed, petitioner shall have **forty-five (45) days** from the date of service of the answer to file a reply.

20 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the Attorney
21 General of the State of Nevada a copy of every pleading, motion, or other document he submits for
22 consideration by the court. Petitioner shall include with the original paper submitted for filing a certificate stating
23 the date that a true and correct copy of the document was mailed to the Attorney General. The court may
24 disregard any paper that does not include a certificate of service. After respondents appear in this action,
25 petitioner shall make such service upon the particular Deputy Attorney General assigned to the case.

1 **IT IS FURTHER ORDERED** that petitioner's ex parte motion for appointment of counsel
2 (docket #2) and motion for appointment of counsel (docket #7) are **DENIED without prejudice**.
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4 Dated this 18th day of July, 2011.

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7 UNITED STATES DISTRICT JUDGE

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